

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Susanne Moira Brown	}	
SERIAL NO.: 10/579,606	}	EXAMINER: Kinsey White, Nicole
FILED: May 16, 2006	}	ART UNIT: 1648
TITLE: Mutant Herpes Simplex Viruses Comprising Nucleic Acid Encoding A Nitroreductase (as amended)	}	CONFIRMATION NO.: 9388

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION PURSUANT TO 37 CFR § 1.132

Sir:

I, Robert Ian Spavin, do hereby declare as follows:

1. I am a practising solicitor authorised by the Law Society of England and Wales and have been employed by Crusade Laboratories Limited as Legal Counsel since September 2003.

2. Paul Dunn, a named inventor on the instant application, was an employee of Crusade Laboratories Limited from 22 December 2001 to 21 December 2003 when he worked on the invention. Paul Dunn's employment with Crusade Laboratories Limited ended after the filing of the priority application (GB0326798.6 filed on 17 November 2003) but prior to the filing of the International Application (PCT/GB2004/004851 filed on 17 November 2004).

3. Shortly before Paul Dunn was due to leave the company, I held a meeting with him on 19 December 2003 at the company's offices in Glasgow. As Paul Dunn was leaving the company's employment to travel and work in Australia, it was realized that it could be logistically difficult to obtain his signature for the Declaration after filing the International Application. At the meeting, I witnessed Paul Dunn sign the Declaration and the Assignment (a copy of which is annexed hereto), which on information and belief is recorded at Reel 017898, Frame 0173.

4. It was Paul Dunn's intention that the Declaration should designate the International Application (PCT/GB2004/004851) as well as the instant application. At the time,

however, we did not have the relevant patent application numbers and, therefore, they were not completed in the Declaration.

5. In support of my statements herein, I note that in the Assignment the following was contemplated:

- (a) the filing of the International Application (referred to in Recital B);
- (b) the right of the company to apply for patent protection for the invention in any country in the world (referred to in paragraph 1.2);
- (c) that all Paul Dunn's rights in the United States in respect of the invention and any patents granted for the invention were assigned to the company (referred to in paragraph 1.1); and
- (d) that Paul Dunn gave an undertaking to execute all documents required to be signed by inventors in support of United States patent applications for the invention (referred to in paragraph 2).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 25 FEBRUARY 2008

By: Robert Spavin
[Printed name] ROBERT SPAVIN

**ASSIGNMENT OF INVENTION
AND INTELLECTUAL PROPERTY RIGHTS RELATING THERETO**

Date:

Parties:

1 'The Assignor'

Paul Dunn
145 Damshot Crescent
Glasgow
G53 5EE

COPY

2 'The Assignee'

Crusade Laboratories Limited
(a company incorporated in England & Wales with Registered No. 03837867)
PO Box 1716
Glasgow
G51 4WF
United Kingdom

Recitals:

(A) The Assignor is the inventor or a joint inventor of the invention or inventions entitled 'Methods for Generating Mutant Virus' which is described in the patent specification annexed hereto ("the Invention") for which the patent application(s) set out in the Schedule hereto have been filed ("the Patent Application(s)")

(B) The Assignee intends to file an international PCT application for the Invention ("the PCT Application")

(C) The Assignor has agreed to assign to the Assignee for the consideration hereinafter mentioned all his rights title and interest in to and under the Invention, the Patent Application(s) and the PCT Application

Operative provisions:

In consideration for the payment of £1.00 by the Assignee to the Assignor the receipt and sufficiency of which is hereby acknowledged by the Assignor:

1 The Assignor hereby sells and assigns to the Assignee absolutely and free from incumbrances:

1.1 all his rights title and interest in Canada and the United States and all other countries of the world in to and under the Invention and the Patent Application(s) and the PCT Application and any and all divisionals, continuations and continuations-in-part of any of the aforesaid applications and any and all patents that may be granted pursuant thereto for the full period

thereof including any re-issues, re-examinations, renewals, extensions and Supplementary Protection Certificates and including all rights and powers arising or accrued therefrom including the right to sue for damages and other remedies in respect of any infringement of any such rights before on or after the date hereof and to retain any damages obtained as a result of such action;

1.2 the right to apply for prosecute and obtain patents and other intellectual property protection anywhere in the world in respect of the Invention to the intent that the grant of any patents or other intellectual property protection for the Invention shall be in the name of and shall vest in the Assignee or its successors or assigns;

1.3 the right to claim priority from any and all of the Patent Application(s) in any and all applications for patent protection for the Invention, such right to be enjoyed by the Assignee as from the date of filing of any of the Patent Application(s) from which priority is claimed;

to the intent that the Assignee shall have and hold the rights title and interest hereby assigned as fully and entirely as the same would have been held and enjoyed by the Assignor had this assignment not been made.

2 The Assignor hereby undertakes that at the request and cost of the Assignee or its successors or assigns he will at all times hereafter promptly do all such acts and execute all such documents (including but not limited to documents required to be signed by or on behalf of inventors in the course of any and all Canadian and United States patent applications which relate to the Invention and any and all divisionals, continuations and continuations-in-part of any such applications) as may be reasonably necessary or desirable to secure the vesting in the Assignee or its successors or assigns of all rights title and interest assigned to the Assignee hereunder and to confirm the title of the Assignee or its successors or assigns to all such rights title and interest and to assist in the resolution of any question concerning the Invention or any application for patent or other intellectual property protection for the Invention or any intellectual property protection granted pursuant to any such application.

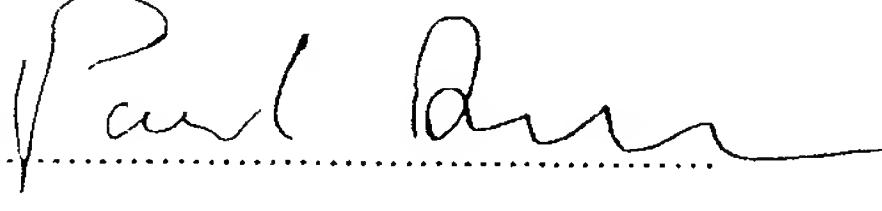
3 The Assignor hereby requests the relevant authorities in all countries of the world to issue any patents granted for the Invention in the name of the Assignee or its successors or assigns in accordance with this assignment.

4 This assignment and undertaking shall be binding upon the Assignor's heirs, executors, administrators, successors and/or assigns and shall enure to the benefit of any heirs, executors, administrators, successors and/or assigns of the Assignee.

AS WITNESS the signatures of (or of duly authorised officers of) the parties hereto the day and year first before written

SCHEDULE
The Patent Applications

GB 0326798.6 having a date of filing of 17 November 2003 and filed in the name Crusade Laboratories Limited

SIGNED by PAUL DUNN)
the ASSIGNOR)
at: GLASGOW)
on: 19th Dec. '03) Signature: 
in the presence of:)

Witness

Signature: 

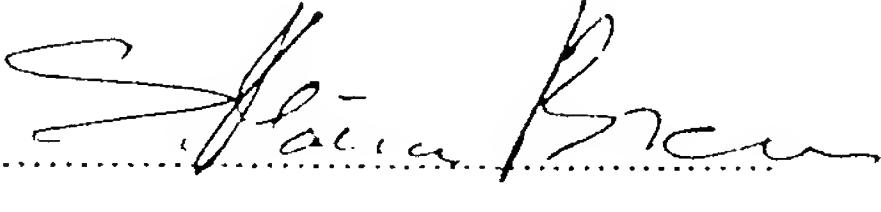
Name: R. SPANIN

Address: 3 BRIDGE COTTAGES
ABERFORD
LEEDS
LS25 3AB

SIGNED for and on behalf of)

the ASSIGNEE)

at: GLASGOW)

on: 19TH DECEMBER 2003) Signature: 

in the presence of:)

Name: MOIRA BROWN

Position: DIRECTOR

Witness
Signature: 

Name: R. SPANIN

Address: 3 BRIDGE COTTAGES
ABERFORD
LEEDS
LS25 3AB

COPY

Sheet No.

Box No. VIII (iv) DECLARATION: INVENTORSHIP (only for the purposes of the designation of the United States of America)
The declaration must conform to the following standardized working provided for in Section 214; see Notes to Boxes Nos. VII, VIII (i) to (v) (in general) and the specific Notes to Box No. VIII (iv). If this Box is not used, this sheet should not be included in the request.

**Declaration of inventorship (Rules 4.17(iv) and 51bis. I(a)(iv))
for the purposes of the designation of the United States of America:**

I hereby declare that I believe I am the original, first and sole (if only one inventor is listed below) or joint (if more than one inventor is listed below) inventor of the subject matter which is claimed and for which a patent is sought.

This declaration is directed to the international application of which it forms a part (if filing declaration with application).

This declaration is directed to international application No. PCT/..... (if furnishing declaration pursuant to Rule 26ter).

I hereby declare that my residence, mailing address, and citizenship are as stated next to my name.

I hereby state that I have reviewed and understand the contents of the above-identified international application, including the claims of said application. I have identified in the request of said application, in compliance with PCT Rule 4.10, any claim to foreign priority, and I have identified below, under the heading "Prior Applications," by application number, country or Member of the World Trade Organization, day, month and year of filing, any application for patent or inventor's certificate filed in a country other than the United States of America, including any PCT international application designating at least one country other than the United States of America, having a filing date before that of the application on which foreign priority is claimed.

Prior Applications:

I hereby acknowledge the duty to disclose information that is known by me to be material to patentability as defined by 37 C.F.R. § 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the PCT international filing date of the continuation-in-part application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name: ...Paul DUNN.....

Residence:GLASGOW, SCOTLAND.....
(city and either US state, if applicable, or country)

Mailing Address:145 DAMSHOT CRESCENT
.....GLASGOW, G53 5EE, SCOTLAND.....

Citizenship:BRITISH.....

Inventor's Signature:Paul D.....

(if not contained in the request, or if declaration is corrected or added under Rule 26ter after the filing of the international application. The signature must be that of the inventor, not that of the agent)

Name: ...Susanne Moira BROWN.....

Residence:
(city and either US state, if applicable, or country)

Mailing Address:

Citizenship:

Inventor's Signature:

(if not contained in the request, or if declaration is corrected or added under Rule 26ter after the filing of the international application. The signature must be that of the inventor, not that of the agent)

Date:19TH DEC 2003.....

(of signature which is not contained in the request, or of the declaration that is corrected or added under Rule 26ter after the filing of the international application)

Date:

(of signature which is not contained in the request, or of the declaration that is corrected or added under Rule 26ter after the filing of the international application)

This declaration is continued on the following sheet, "Continuation of Box No. VIII (iv)".

Continuation of Box No. VIII (i) to (v) DECLARATION

If the space is insufficient in any of Boxes Nos. VII (i) to (v) to furnish all the information, including in the case where more than two inventors are to be named in Box No. VIII (iv), in such case, write "Continuation of Box No. VIII..." (indicate the item number of the Box) and furnish the information in the same manner as required for the purposes of the Box in which the space was insufficient. If additional space is needed in respect of two or more declarations, a separate continuation box must be used for each such declaration. If this Box is not used, this sheet should not be included in the request.

Continuation of Box No. VIII (iv) DECLARATION OF INVENTORSHIP
(only for the purposes of the designation of the United States of America)

Name:

Residence:

(city and either US state, if applicable, or country)

Mailing Address:

Citizenship:

Inventor's Signature:

(if not contained in the request, or if declaration is corrected or added under Rule 26ter after the filing of the international application. The signature must be that of the inventor, not that of the agent)

Date:

(of signature which is not contained in the request, or of the declaration that is corrected or added under Rule 26ter after the filing of the international application)

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(city and either US state, if applicable, or country)

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(city and either US state, if applicable, or country)

Mailing Address:

Citizenship:

Inventor's Signature:

(if not contained in the request, or if declaration is corrected or added under Rule 26ter after the filing of the international application. The signature must be that of the inventor, not that of the agent)

Date:

(of signature which is not contained in the request, or of the declaration that is corrected or added under Rule 26ter after the filing of the international application)